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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,737	01/11/2001	Giles Roger Frazier	AUS9-2000-0636-US1	9023

7590 06/24/2004

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EXAMINER

HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,737

Applicant(s)

FRAZIER ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached Office Action.

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1. Claims 1-38 are presented for examination.
2. Formal Drawings filed 10 May 2001 have been received by the Office and will be considered by the Drafting Division in due course.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, and clarity of meaning in the Specification, Drawings, and specifically claims.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2) (a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or

6. Claims 1-38 are rejected under 35 U.S.C. 102 (e) as being anticipated by Wilson et al. (US 6,738,821 B1).
7. Prior to addressing the grounds of the rejection, citation to figures and text within the reference serve only as an aid and are neither all-inclusive nor all-exclusive in nature. Thus the whole of the reference is cited.
8. Per claims 1,10, and 11, Wilson taught a method (e.g., see figures 6 and 7) in a data processing system (e.g., see figure 1F) for transferring data (e.g., see Abstract (line 8)), the method comprising:
a) sending a request ("Acknowledgement+Window"), wherein the request included an amount of available processing space ("buffer space" (this also addresses applicant's claims 10 and 11)) at the data processing system (e.g., see col. 18 (lines 18-24) and col. 1 (lines 33-49 (while keeping in mind "Windows", as used in TCP/IP, basically indicated to

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the other computer in a network the amount of information the requesting computer can receive at any one time)); and,
b) receiving a subsequence of data packets from a set of subsequences of data packets in response to the request each time the amount of available processing space is free, wherein data within each subsequence within the set of subsequences of data packets fits within the amount of available processing space (e.g., see col. 13 (line 29-54)).

9. Per claim 2, see, for example, Abstract (second to the last line) and col. 17 (line 45 (third word)).

10. Per claim 3, see, for example, col. 13 (lines 43-54) and col. 18 (lines 18-24).

11. Per claims 4-9, see, for example, figure 3B (206c,206g), col. 15 (lines 5-20 "fragmentation") and col. 21 (lines 50-66) while noting these are basic TCP/IP operations.

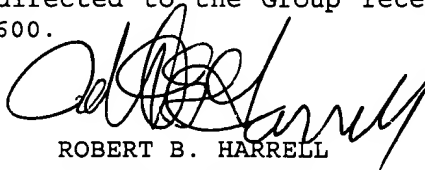
12. Per claims 12-38, these claims do not teach or defined above the correspondingly rejected claims given above and/or have already been shown present, or inherently present (i.e., computers of figure 1F inherently contained communication units, memory, processors and co-processors, multi-bus motherboards, and the like equivalent [for the application claimed means+functions] off the shelf products that executed the above cited method as a computer program product stored in a computer readable medium), in the above citations, and are thus rejected for the same reasons given above.

13. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (703) 308-9705. The fax phone numbers for the Group are (703) 746-7238 for After-Final, (703) 746-7239 for Official Papers, and (703) 746-7240 for Non-Official and Draft papers.

16. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.


ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142